REMARKS

The Office Action dated February 18, 2005, has been received and carefully considered. Reconsideration of the outstanding objections/rejections in the present application is also respectfully requested based on the following remarks.

I.   THE OBVIOUSNESS REJECTION OF CLAIMS 1-20

On page 2 of the Office Action, claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Takashima et al. (U.S. Patent No. 6,563,794) in view of Naegeli et al. (U.S. Patent No. 6,574,797). This rejection is hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both

3

be found in the prior art, not in applicant's disclosure. In re

Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In responding to Applicants arguments, the Examiner repeats

his assertion that Takashima discloses the claimed step of

"determining a delay for the at least one data transmission

based on the maximum bandwidth specified." Applicant has again

considered the teachings and suggestions of Takashima and

continues to respectfully disagree with the Examiner as to its

teaching. As previously argued, Applicants respectfully submit

that Takashima does not teach or suggest "determining a delay

for the at least one data transmission based on the maximum

bandwidth specified," as expressly recited in independent claim

1. Rather, the portion of Takashima cited by the Office Action

as disclosing this limitation **merely acknowledges the difficulty**

in determining the maximum bandwidth for a maximum delay

guarantee service:

> However, this system has a disadvantage from the
> viewpoint of an effective bandwidth use. Additionally,
> since it is difficult to determine the maximum
> bandwidth for a maximum delay guarantee service which
> must reference the parameters of receiver resource
> requests, attention must be paid when this system is
> utilized.

See, Takashima patent, Col. 25, lines 26-31.

Applicant is perplexed at how the referenced excerpt can be

said to teach or suggest the specific limitation of "determining

4

a delay for the at least one data transmission **based on the maximum bandwidth specified.**" In particular, the excerpt does not specify that the delay is "determined," much less that it is <u>based</u> on the maximum bandwidth specified. In fact, in this regard, the Applicant has <u>overcome</u> one of the principal limitations recognized in Takashima. Applicant respectfully submits, therefore, that Takashima does not teach or suggest "determining a delay for the at least one data transmission based on the maximum bandwidth specified," as expressly recited in independent claim 1.

Further, as previously argued, Applicants respectfully submit that Naegeli does not teach or suggest "configuring a maximum bandwidth for at least one data transmission," as expressly recited in claim 1. Rather, the portion of Naegeli cited by the Office Action as disclosing this limitation merely states that an "upstream receiver and related hardware components are designed or configured to receive data at the maximum bandwidth at the maximum symbol rate." *See* Naegeli patent, Col. 8, lines 35-38. Applicants respectfully submit, however, that such a teaching is not the same as "configuring a maximum bandwidth for at least one data transmission," as recited in independent claim 1.

Applicants also respectfully submit the Office Action fails to set forth a proper motivation to combine the disclosures of Takashima and Naegeli. As previously argued, the cited motivation is based on hindsight from viewing the claims of the present application. Thus, Applicant respectfully submits that Office Action fails to meet the burden necessary to establish a *prima facie* obviousness rejection.

Independent claim 11 recites related subject matter to the above-identified independent claim, and is therefore allowable for reasons similar to those given above.

Claims 2-10, 12-22 are dependent upon either independent claim 1 or 11. Thus, since independent claims 1 and 11 should be allowable as discussed above, claims 2-10, 12-22 should also be allowable at least by virtue of their dependency on independent claim 1 or 11. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, dependent claim 2 recites "wherein the server comprises a trivial file transfer protocol." Applicants respectfully submit that the excerpt from Takashima referenced by the Examiner as disclosing this limitation – Col. 4, lines 44-51 -- fails to teach or suggest such a limitation:

> A boundary device according to the present invention
> comprises a receiving unit, a message processing unit,

6

and a connection controlling unit. This device is intended to control a communication at a boundary between a first network that routes and transfers data packets in units of hops, and a second network that transfers data cells based on an established connection.

Dependent claims 8 and 18 recite a specific formula for determining the claimed delay. While the Examiner asserts that the Takashima-Naegeli combination teaches or suggests such a formula, no reference is made to a specific portion(s) of Takashima or Naegeli where such a teaching or suggestion is made. Applicants have thoroughly reviewed the Takashima and Naegeli references and could not find where such a formula is taught or suggested.

Similarly, dependent claim 21 recites "wherein the maximum bandwidth is specified by a user." Applicants respectfully submit that the excerpt from Takashima referenced by the Examiner as disclosing this limitation - Col. 28, lines 24-44 -- fails to teach or suggest such a limitation, particularly the requirement that the bandwidth is specified by a user:

> With the fixed class system, the levels of a bandwidth are fixedly classified into "x" classes beforehand. Assume that the bandwidth from "0" to "Bmax" is divided into "x" classes by using maximum bandwidth "Bmax" as a standard. In this case, the bandwidth of the "i"th class "i" ($i=1, 2, . . . , x$) is set to be equal to or larger than $Bmax*(i-1)/x$ and smaller than $Bmax*i/x$.
>
> A resource request from each of the receiving terminals is classified as the class "i", and the

point-to-multipoint connection having the bandwidth $Bmax*i/x$ is allocated in response to the resource request. If the connection of this class already exists, the receiving side boundary device which has sent the new resource request is added to the connection with a message ADD PARTY.

FIG. 23 shows the correspondence between respective classes and the bandwidths allocated to the respective classes by using as a standard the maximum bandwidth set to Bmax. Here, it is assumed that the number of classes "x" is 10, and the resource reservation message $RESV\_1$ from the receiving terminal $R.sub.1$ requests the bandwidth of $92*Bmax$.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 1-20 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to

Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

Hunton & Williams LLP

By: _____
Thomas E. Anderson
Registration No. 37,063

TEA/OAF/dja

Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

Date: May 18, 2005